

**Acton Community Housing Corporation**

**Nancy Tavernier, Chairman**

**TOWN OF ACTON**

Acton Town Hall

472 Main Street

Acton, Massachusetts, 01720

Telephone (978) 263-9611

Fax (978) 264-9630

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TO: Zoning Board of Appeals  
FROM: Nancy Tavernier, Chair  
SUBJECT: The Woodlands condominium unit locator plan  
DATE: November 30, 2005  
cc: Don Johnson, Steve Anderson, Garry Rhodes, David Hale, Mark Brooks, Joel Kahn

On November 29, 2005, Betty McManus and I met with David Hale to discuss the proposed affordable unit locator plan for the condominium component of The Woodlands. In general the 16 affordable units are evenly disbursed throughout the project with the exception of the units located on the outer edge of the development since those are anticipated to be candidates for upgrades such as a walk-out finished basement. We made several adjustments to the proposed layout in order to satisfy the criteria used by ACHC for a fair distribution. On behalf of ACHC, Betty and I approved the final plan.

The following are the units designated for affordable households:

Units 2, 4, 27, 30, 33, 35, 38, 41, 43, 46, 49, 52, 55, 57, 59, 64

LOT 3  
18.13 AC.

WESTFORD  
ACTON

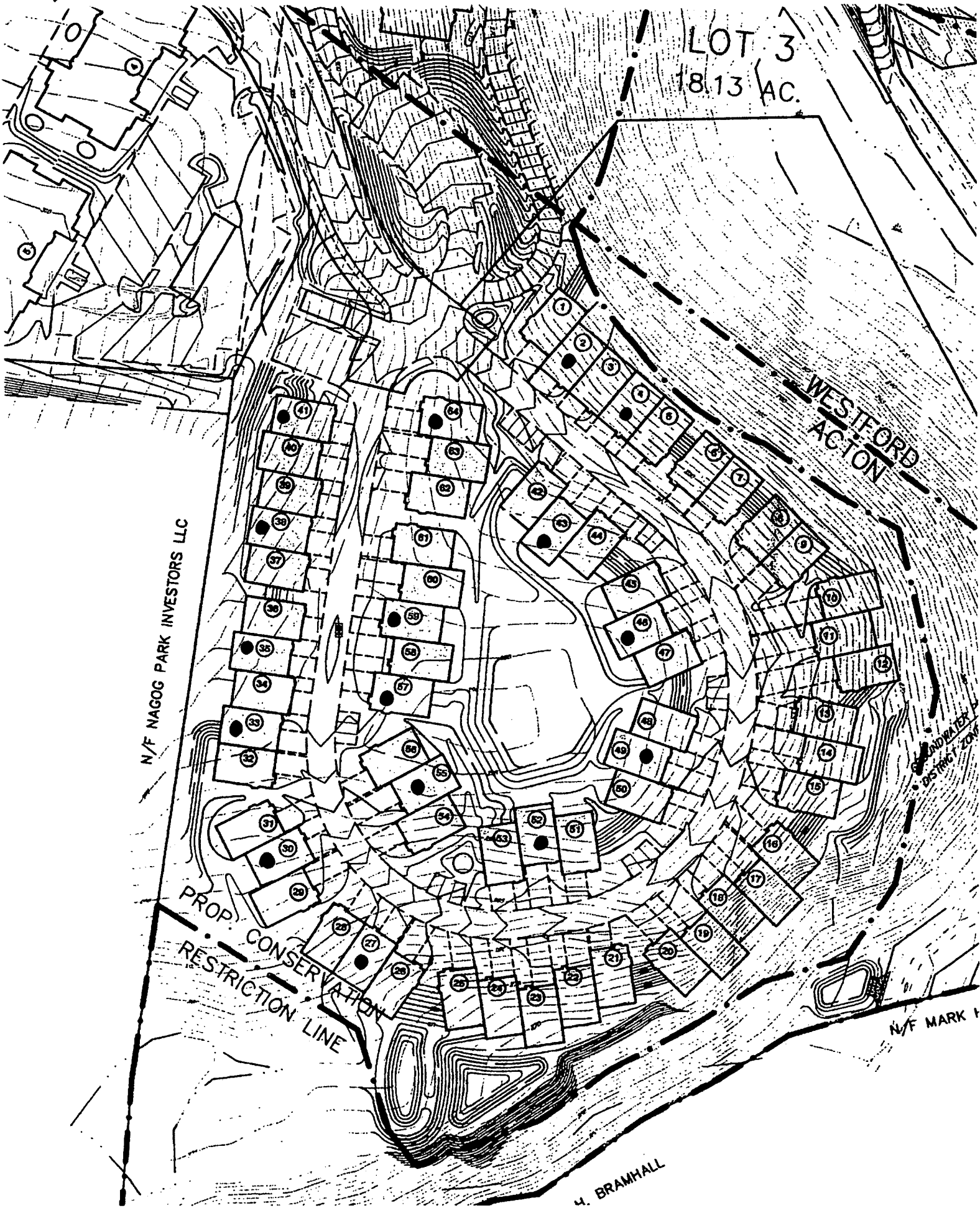
N/F NAGOG PARK INVESTORS LLC

PROP. CONSERVATION  
RESTRICTION LINE

BOUNDARY  
DISTRICT ZONE

N/F MARK 1

4. BRAMHALL



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Telephone (978) 263-9611

[achc@acton-ma.gov](mailto:achc@acton-ma.gov)

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TO: Planning Board  
FROM: Nancy Tavernier, Chair, ACHC  
SUBJECT: Senior Residence Special Permit Application for The Woodlands  
DATE: June 29, 2006  
cc BOS, Town Counsel

Members of the ACHC reviewed the Application for The Woodlands Special Permit at our June 15, 2006 meeting. Having followed The Woodlands Comprehensive Permit process carefully, we anticipated this application. We understand the rationale for this request. ACHC was not a partner to the negotiations between the Town and the Developer in regard to the establishment of a public safety infrastructure fund but we know the fund will be generated as a result of the condominium component of the project. None of these funds from the developer will be used for affordable housing, so the actual provision of 6 affordable units is essential to maintain the intent of the Comprehensive Permit. ACHC is committed to guaranteeing these units are added to our Subsidized Housing Count.

In order to be added to the Housing Count, these 6 units must be approved by DHCD certifying they are deed restricted and the Town is protected through a regulatory agreement that insures their affordability into perpetuity. In light of new guidelines being promulgated by DHCD for age restricted units, we do have some specific suggestions that should be included in the Permit:

- The selling prices of the affordable units must be set at what is affordable to a 3 person household earning 80% of area median income and are not required to reflect a 10% window of affordability. The goal is to have the monthly housing costs equal to 30% of the monthly income of a household earning 80% of the area median income.
- The proposed selling price of the units at \$160,000 is just barely affordable for a household of 3, with a maximum income of \$59,550, when making a down payment of 5%. It is more affordable for greater down payments. However, if calculated for a 2 person household with a maximum income of \$52,950 and a 5% down payment, the selling price is too high. It appears that DHCD allows the income of the 3 person household to be used as the maximum, but the reality is it will most likely be a 2 person household.

- The interest rate used in the affordability analysis is a time-sensitive interest rate and should be approximately a quarter percent above the latest prevailing fixed 30-year rate as listed on Freddie Mac's interest rate survey.
- The Town/ACHC should perform annual monitoring and certification to DHCD that LIP units continue to serve as owners' residences.
- The Town/ACHC should perform annual certification to DHCD that any LIP units that have been resold during the year have been resold in compliance with LIP requirements.
- There shall be no occupancy restriction except that one household member must be age 55 or older;
- Children age 18 or younger cannot be excluded from the LIP Units;

The following items apply to 55 and over households:

- Elder households do not have to be first time homebuyers.
- Elder households may purchase a LIP unit with cash.
- If the purchase is financed, only the occupants of the unit may sign the mortgage.
- Household assets shall not exceed \$50,000 in value.
- Elder households must meet the following income and asset test:

In the case of age-restricted homeownership units the purchaser household may own a dwelling (to be sold) in which the purchaser has no more than \$200,000 in equity. The value of assets shall be computed on the basis of net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding equity accounts in HUD homeownership programs or state assisted public housing escrow programs. The value of necessary items of personal property, such as furniture or automobiles, shall be excluded.

Determination of assets shall be based upon a full and fair present cash value of the asset at the time of application to the program. If a potential purchaser divests him/herself of an asset for less than full and fair cash value of the asset within two years prior to application, the full and fair cash value of the asset shall be included for purposes of calculating eligibility.

- The LIP Deed Rider is the most critical tool for ensuring that a homeownership unit remains affordable. When the owner of a LIP unit is ready to sell, the owner must give notice to the community and to DHCD. The deed rider contains strict timelines and it is imperative that, once notified of a LIP resale, the municipality acts swiftly to locate an income-eligible buyer. The Deed Rider should be submitted to the Town for review and approval.

The Application does not include Lottery and Marketing plan materials for the affordable units. The ACHC would like to review these materials when they are submitted. We will work with the developers in the preparation of lottery application materials.

ACHC voted to recommend the approval of this Special Permit.



# MASSDEVELOPMENT

160 Federal Street  
Boston, Massachusetts  
02110

April 12, 2006

Tel: 617-330-2000  
800-445-8030  
Fax: 617-330-2001  
617-451-3429

Woodlands at Laurel Hill, LLC  
676 Elm Street, Suite 300  
Concord, MA 01742  
Attention: David Hale

www.massdevelopment.com

Re: Woodlands at Laurel Hill Comprehensive Permit Dated December 20, 2005

Dear Mr. Hale:

We have had the opportunity to review the Comprehensive Permit issued by the Zoning Board of Appeals of the Town of Acton dated December 20, 2005 (the "Permit") for the 296 rental-unit portion of the project Woodlands at Laurel Hill.

MassDevelopment has several comments regarding the requirements of the Permit as they may apply to financing of the Project by MassDevelopment including the following:

1. Utilization of Excess Profit (Section R.5 – page 49). Section R.5 of the Permit provides that "if the Applicant has exceeded the allowable profit under the applicable equity and limited divided policy, the Applicant shall donate the excess profit to the Town of Acton ...." MassDevelopment's equity policy for Chapter 40B projects explicitly deals with profits in excess of the amounts allowable to be distributed and provides in Section 5 for the creation of an "Excess Equity Account" to be held in accordance with the policy. MassDevelopment would, however, consider directing any Excess Equity to an affordable housing trust created under M.G.L. c 44, Section 55C, or an entity which has equivalent rights and powers. The Town has sent information to MassDevelopment about the current Acton Community Housing Corporation, and MassDevelopment would consider directing these funds to that entity at the time that Excess Equity is available from the Project. ✓

2. Revisions to Regulatory Agreement (Section R.4 – Page 47). The Comprehensive Permit requires changes in the MassDevelopment Regulatory Agreement "as are requested by counsel of the Town of Acton." While MassDevelopment would be willing to review requests for changes to its Regulatory Agreement, our Regulatory Agreement is drafted to assure compliance with tax-exempt bond requirements under the Internal Revenue Code and to comply with policies adopted by our Agency so certain provisions cannot be varied. OK

David Hale  
April 12, 2006  
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3. Local Preference and other Permit Requirements As a state-wide agency, MassDevelopment is not in a position to enforce particular local requirements, such as local preferences, which may be imposed by a zoning board in a comprehensive permit. MassDevelopment only regulates a project's tenant selection plan to assure compliance with affordability and other tax-exempt, bond-related requirements. MassDevelopment is not involved in creating or enforcing local preference programs and would leave such issues to the Town.

4. Compliance Review by ZBA and/or Town of Acton (Section R.5/R.6 – Page 49). This section could be read to provide that affordability requirements and limited dividend provisions of MassDevelopment may be reviewed and audited by the ZBA and/or the Town. As the subsidizing agency, MassDevelopment is responsible for the enforcement of its bond covenants and the requirements of its housing programs including affordability restrictions and limited dividends, and it enforces these through its Regulatory Agreement. To the extent that the Town and/or the ZBA desire to enforce requirements in the Permit which are not otherwise governed by the MassDevelopment Regulatory Agreement, MassDevelopment would have no objection.

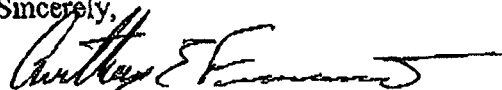
MassDevelopment's policy is to enter into a Regulatory Agreement with its borrowers and to permit the borrowers to enter into subordinate regulatory agreements with other lenders and/or the municipality, provided that such provisions do not conflict with the MassDevelopment Regulatory Agreement, or if there is any conflict, the MassDevelopment requirements take priority so long as MassDevelopment's bonds are outstanding.

MassDevelopment is interested in working with Omni Properties and the Town to reach an acceptable understanding with respect to the regulation of this project so that we may be in a position to potentially issue bonds for construction of the project. We have assumed, in this letter, that any MassDevelopment financing would be solely with respect to the rental components of the project, and further analyses would be required if MassDevelopment were to also finance the condominium portion of the project.

We hope that this clarification will provide a framework for the financing of this important project.

Please contact the undersigned if you have questions or wish to discuss this letter.

Sincerely,



Anthony E. Fracasso  
Senior Vice President